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September 19, 2017

The Honorable Judith C. McCarthy  
United States Magistrate Judge  
Southern District of New York  
300 Quarropas Street  
White Plains, New York 10601

**Re: *United States v. Nicholas Szucs*, 17cr373-KMK**

Dear Judge McCarthy:

I write on behalf of my client, Nicholas Szucs, to respectfully request that the Court modify the conditions of release imposed on May 20, 2016. At that time, Your Honor ordered, among other conditions, release on a \$75,000 personal recognizance bond secured by the signature of his wife, with GPS monitoring and home detention. Your Honor also ordered travel limited to the Southern and Eastern Districts of New York. Section 3142(c)(1)(B) at Title 18 made electronic monitoring (EM) and location restriction, i.e., home detention, programs mandatory because the Complaint, which alleged three violations of law total, included charges of violating 18 U.S.C. § 2252A(a)(1), transportation of child pornography, and 18 U.S.C. § 2252A(a)(2)(B), receipt of child pornography.

On June 27, 2017, Mr. Szucs appeared before Judge Smith and entered a plea of guilty to a *one*-count information alleging a violation only of 18 U.S.C. § 2252A(a)(5)(B), possession of child pornography. Notably, a violation of § 2252A(a)(5)(B) does not trigger the mandatory conditions of EM and location restriction programs. See 18 U.S.C. § 3142(c)(1)(B) (listing offenses and not identifying § 2252A(a)(5)(B)).

Mr. Szucs seeks to modify the travel condition from October 4, 2017 to October 7, 2017, so that he can travel to New Brunswick, Canada and Waterville, Maine, for work. He also seeks to eliminate the conditions requiring GPS monitoring and home confinement based upon his need for ongoing medical treatment as well as his performance to date on pretrial release.

Mr. Szucs is a concert violinist and performs with the New York Gilbert and Sullivan players. He has a regular seat with the orchestra. The company is performing in Saint John, New Brunswick, Canada on October 5, 2017, and in Waterville, Maine, on October 6, 2017. The company has chartered a bus that leaves from Manhattan on October 4, 2017, and returns to New York City on October 7, 2017. Mr. Szucs currently relies on his work with Gilbert and Sullivan players for his largest source of income, which he relies on to support himself and his family. If he is unable to make this trip, he fears that he will lose his position as a violinist with the group, which would adversely affect him financially.

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Mr. Szucs was recently diagnosed with a tumor on his left kidney. Mr. Szucs underwent emergency surgery on or about August 23, 2017, to remove a kidney stone that lodged in the tube exiting the left kidney. The stone caused considerable pain and prompted Mr. Szucs to seek medical treatment. Physicians performed a CAT scan prior to the surgery to diagnose the cause of Mr. Szucs' pain. During the CAT scan, physicians discovered a tumor on Mr. Szucs' right kidney. This discovery prompted physicians to order an MRI and other testing. The MRI occurred on September 1, 2017, and required Pretrial Service Officer Leo Barrios to temporarily remove the GPS ankle monitor from Mr. Szucs's leg that morning. Mr. Szucs returned later on the same day it was removed to have it re-affixed to his ankle. Physicians diagnosed the tumor as benign thankfully, but they want to continue to monitor Mr. Szucs given fears that the tumor could become malignant based upon its current size. In addition to the tumor-related issue, Mr. Szucs also is in the midst of setting up a cardiology appointment to treat an enlarged aorta, which was discovered in early August when Mr. Szucs underwent an EKG. He anticipates it being set for a date and time within the next two weeks.

Mr. Szucs's need for future medical treatment, which occurs solely in Westchester County, is a strong reason to believe that he will return home from Canada and Maine, and provides a strong basis to conclude that he is not a flight risk, especially when coupled with his family ties and work all in the same or surrounding area.

To date, Mr. Szucs has remained in compliance with conditions of release, and made all necessary appearances before the Court and appeared at all scheduled appointments with pretrial services. He is employed as a violinist, and continues to reside at his home in South Salem, New York, with his family. Mr. Szucs' pretrial service officer, Leo Barrios, confirmed for undersigned counsel that Mr. Szucs is in complete compliance with conditions of his pretrial release. Based upon the need for travel for work purposes and medical issues described above, Mr. Barrios has no objection to the instant request to modify conditions.

I also spoke with Assistant United States Attorney Jennifer Beidel regarding the instant request. Ms. Beidel defers to Mr. Barrios on the matter. Thank you for your consideration of this matter.

Respectfully submitted,



Jason Ser  
Assistant Federal Defender

**SO ORDERED:**


**HONORABLE JUDITH C. MCCARTHY**  
United States Magistrate Judge 9-19-17

cc:/Jennifer Beidel, A.U.S.A.